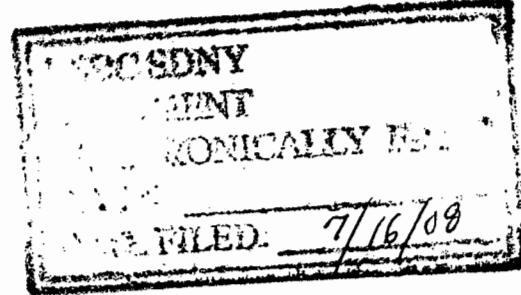


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



X

DANIEL SZAROLETA, :  
Plaintiff, : ORDER  
-against- : 07 Civ. 7639 (KNF)  
METRO-NORTH COMMUTER RAILROAD, :  
Defendant. :  
X

KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE

The parties have complied with the June 27, 2008 order of the Court directing them to supplement their respective submissions made, pursuant to Daubert v. Merrill Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S. Ct. 2786 (1983), so that the Court may perform the gatekeeping obligation imposed upon it by Daubert.

Based upon all the submissions, the Court finds that it would be reasonable and appropriate to permit the plaintiff to elicit opinion testimony at the trial of this action from Jason E. Cohen, M.D., concerning the “permanency” of the injury the plaintiff contends he sustained on January 8, 2007, while in the defendant’s employ and whether the injury will improve, remain static or worsen in the future. The Court finds further that it would be reasonable and appropriate to permit the defendant to elicit opinion testimony at the trial from George L. Unis, M.D.,

concerning the ability of the plaintiff to perform “sedentary work” and the effect of the plaintiff’s “Kennedy’s Disease” in “determining the plaintiff’s future claimed disability.”

Dated: New York, New York  
July 16, 2008

SO ORDERED:

kevin nathaniel fox  
KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE